

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to hotel and motel tax
and providing an opportunity for public comment**

The Department of Revenue hereby proposes to amend Chapter 103, “State-Imposed and Locally Imposed Hotel and Motel Taxes—Administration,” Chapter 104, “Hotel and Motel—Filing Returns, Payment of Tax, Penalty, and Interest,” and Chapter 105, “Locally Imposed Hotel and Motel Tax,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 423A and 2017 Iowa Acts, House File 609.

Purpose and Summary

The proposed amendments are necessary to implement the local hotel and motel tax imposed by a land use district, as authorized in 2017 Iowa Acts, House File 609. The proposed amendments define “land use district.” The proposed amendments also update the rules and procedures to provide for the imposition of a local hotel and motel tax by a land use district.

Fiscal Impact

The proposed amendments will have no fiscal impact if no land use district implements a hotel and motel tax. Implementation of a hotel and motel tax by a land use district will reduce county revenue by whatever portion of the current county hotel and motel tax revenue is derived from lodging within the land use district.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50306
Email: tim.reilly@iowa.gov
Phone: 515.725.2294

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)“b.”

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of “Land use district” in subrule **103.1(1)**:
“*Land use district*” means a district created under Iowa Code chapter 303, subchapter IV.

ITEM 2. Amend subrule 103.1(4) as follows:

103.1(4) A city, or county, or land use district may impose by ordinance of the city council or by resolution of the county board of supervisors a tax on lodging, at a rate not to exceed 7 percent, which shall be imposed in increments of one or more full percentage points upon the sales price from the renting of lodging. When imposed by a city, the tax shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county. See 701—Chapter 105 for more information on locally imposed hotel and motel tax.

ITEM 3. Amend rule **701—103.1(423A)**, implementation sentence, as follows:

This rule is intended to implement 2005 Iowa Code Supplement sections 423A.3 and 423A.4.

ITEM 4. Amend rule 701—103.14(423A) as follows:

701—103.14(423A) Notification. Before a city’s or county’s the local option hotel and motel tax of a city, county, or land use district can become effective, be revised, or be repealed, 45 days’ notice of such action must be given to the director in writing by mail.

This rule is intended to implement 2005 Iowa Code Supplement section 423A.4.

ITEM 5. Amend rule 701—103.15(423A) as follows:

701—103.15(423A) Certification of funds. Within 45 days after the date that the quarterly returns and payments are due, the director will certify to the treasurer of state the amount of locally imposed tax to be transferred from the general fund to the local transient guest tax fund, which is to be distributed to each city, and county which, and land use district that has adopted the tax. Payments received after the date of certification will remain in the general fund until the next quarterly certification.

This rule is intended to implement 2005 Iowa Code Supplement section 423A.7.

ITEM 6. Amend rule 701—104.7(423A) as follows:

701—104.7(423A) Application of payments.

104.7(1) *Partial payments.* Since a combined hotel and motel tax and quarterly state sales tax return is utilized by the department, all payments received with the return will be applied to satisfy state sales tax and hotel and motel tax liabilities, which include penalty and interest. Application of partial payments received with the tax return and any subsequent partial payment received for that tax period will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2) “d.” The denominator in the ratio shall be the total of the hotel and motel tax due and the state sales tax due less any monthly sales tax deposits. The numerators in the ratio formula shall be the amounts of hotel and motel tax due and the net state sales tax due.

EXAMPLE: XYZ hotel owes a total of \$1,000 in net state sales tax and hotel and motel tax for the quarter. Of the \$1,000 owed, \$600 is for hotel and motel tax and \$400 is for state sales tax. XYZ files its quarterly sales tax return accompanied by a \$500 partial payment. The \$500 partial payment would be applied based on the following computation:

$$\begin{array}{rclcl} \frac{600}{1000} \times 500 & = & \$300 & \text{Hotel and motel tax} \\ \frac{400}{1000} \times 500 & = & \$200 & \text{State sales tax} \end{array}$$

104.7(2) *Locally imposed tax*

a. *Generally* All revenues received under Iowa Code chapter 423A are to be credited to the “local transient guest tax fund.” Revenues include all interest and penalties applicable to any hotel and motel tax report or remittance, whether resulting from delinquencies or audits.

b. *Termination by a city or county.* All revenues received or moneys refunded 180 days after the date on which a city or county terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund. The 180-day limitation applies to actual receipts or disbursements and not to accrued but unpaid tax liabilities or potential refunds.

c. *Termination by a land use district.* If a land use district terminates its local hotel and motel tax, lodging within the district becomes subject to any local hotel and motel tax imposed by a city or county within the corporate boundaries of that district on the date of termination. If a city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district after the date on which the land use district terminates its local hotel and motel tax shall be treated as collected from or refunded to lodging in such city or county. If no city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district at least 180 days after the date on which the land use district terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund as described in paragraph 104.7(2) “b.”

This rule is intended to implement 2005 Iowa Code Supplement section 423A.7.

ITEM 7. Amend rule 701—105.1(423A) as follows:

701—105.1(423A) Local option. ~~A city or county may impose, by ordinance of the city council, or by resolution of the board of supervisors a hotel and motel tax subject to the approval of its citizens. The tax when imposed by a city shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only.~~ A county may impose, by resolution of the board of supervisors, a hotel and motel tax outside incorporated areas within the county. A land use district may impose, by ordinance of the board of trustees, a hotel and motel tax within the corporate boundaries of that district. A city or county cannot impose its hotel and motel tax within the corporate boundaries of a land use district during any period when the land use district imposes a hotel and motel tax. A city, or county, or land

use district can impose the tax only after an election at which a majority of those voting on the question favors imposition.

This rule is intended to implement ~~2005 Iowa Code Supplement~~ section 423A.4 as amended by 2017 Iowa Acts, House File 609.